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THIRD CONFERENCE  
ON THE LAW OF THE SEA

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A/CONF.62/C.2/L.85  
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ORIGINAL: ENGLISH

SECOND COMMITTEE

STATEMENT ON THE WORK OF THE SECOND COMMITTEE

Prepared by the Rapporteur

I. INTRODUCTION

At its 2nd meeting on 7 December 1973, 1/ the Conference decided to establish the Second Committee as one of its three Main Committees.

In accordance with the decision of the Conference at its 7th meeting on 12 December 1973, 2/ the officers of the Committee were:

Chairman: Mr. Andrés AGUILAR (Venezuela)  
Vice-Chairmen: Mr. Zdenek PISK (Czechoslovakia)  
Mr. Francis Xavier NJENGA (Kenya)  
Mr. Necmettin TUNCEL (Turkey)  
Rapporteur: Mr. Satya N. NANDAN (Fiji)

II. MANDATE OF THE COMMITTEE

At its 15th meeting on 21 June 1974, the Conference allocated the following

items of the Second Committee, 1/ bearing in mind the introductory note 2/ to the list of subjects and issues:

Item 2. Territorial sea

- 2.1 Nature and characteristics, including the question of the unity or plurality of régimes in the territorial sea
- 2.2 Historic waters
- 2.3 Limits
  - 2.3.1 Question of the delimitation of the territorial sea; various aspects involved
  - 2.3.2 Breadth of the territorial sea. Global or regional criteria. Open seas and oceans, semi-enclosed seas and enclosed seas
- 2.4 Innocent passage in the territorial sea
- 2.5 Freedom of navigation and overflight resulting from the question of plurality of régimes in the territorial sea

Item 3. Contiguous zone

- 3.1 Nature and characteristics
- 3.2 Limits

1/ A/CONF.62/29.

2/ The text of the introductory note is as follows:

"The present list of subjects and issues relating to the law of the sea has been prepared in accordance with General Assembly resolution 2750 (XXV).

The list is not necessarily complete nor does it establish the order of priority for consideration of the various subjects and issues.

Since the list has been prepared following a comprehensive approach and attempts to embrace a wide range of possibilities, sponsorship or acceptance of the list does not prejudice the position of any State or commit any State with respect to the items on it or to the order, form or classification according to which they are presented.

Consequently the list should serve as a framework for discussion and drafting of necessary articles." (Para. 23, Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 21 (A/8721).)

- Item 3.3 Rights of coastal States with regard to national security, customs and fiscal control, sanitation and immigration regulations
- Item 4. Straits used for international navigation
  - 4.1 Innocent passage
  - 4.2 Other related matters including the question of the right of transit
- Item 5. Continental shelf
  - 5.1 Nature and scope of the sovereign rights of coastal States over the continental shelf. Duties of States
  - 5.2 Outer limit of the continental shelf: applicable criteria
  - 5.3 Question of the delimitation between States; various aspects involved
  - 5.4 Natural resources of the continental shelf
  - 5.5 Régime for waters superjacent to the continental shelf
  - 5.6 Scientific research
- Item 6. Exclusive economic zone beyond the territorial sea
  - 6.1 Nature and characteristics, including rights and jurisdiction of coastal States in relation to resources, pollution control and scientific research in the zone. Duties of States
  - 6.2 Resources of the zone
  - 6.3 Freedom of navigation and overflight
  - 6.4 Regional arrangements
  - 6.5 Limits: applicable criteria
  - 6.6 Fisheries
    - 6.6.1 Exclusive fishery zone
    - 6.6.2 Preferential rights of coastal States
    - 6.6.3 Management and conservation

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- Item 6.6.4 Protection of coastal States' fisheries in enclosed and semi-enclosed seas
- 6.6.5 Régime of islands under foreign domination and control in relation to zones of exclusive fishing jurisdiction
- 6.7 Sea-bed within national jurisdiction
  - 6.7.1 Nature and characteristics
  - 6.7.2 Delineation between adjacent and opposite States
  - 6.7.3 Sovereign rights over natural resources
  - 6.7.4 Limits: applicable criteria
- 6.8 Prevention and control of pollution and other hazards to the marine environment
  - 6.8.1 Rights and responsibilities of coastal States
- 6.9 Scientific research
- Item 7. Coastal State preferential rights or other non-exclusive jurisdiction over resources beyond the territorial sea
  - 7.1 Nature, scope and characteristics
  - 7.2 Sea-bed resources
  - 7.3 Fisheries
  - 7.4 Prevention and control of pollution and other hazards to the marine environment
  - 7.5 International co-operation in the study and rational exploitation of marine resources
  - 7.6 Settlement of disputes
  - 7.7 Other rights and obligations

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- Item 8.        High seas
- 8.1        Nature and characteristics
  - 8.2        Rights and duties of States
  - 8.3        Question of the freedoms of the high seas and their regulation
  - 8.4        Management and conservation of living resources
  - 8.5        Slavery, piracy and drugs
  - 8.6        Hot pursuit
- Item 9.        Land-locked countries
- 9.1        General principles of the law of the sea concerning the land-locked countries
  - 9.2        Rights and interests of land-locked countries
    - 9.2.1      Free access to and from the sea: freedom of transit, means and facilities for transport and communications
    - 9.2.2      Equality of treatment in the ports of transit States
    - 9.2.3      Free access to the international sea-bed area beyond national jurisdiction
    - 9.2.4      Participation in the international régime, including the machinery and the equitable sharing in the benefits of the area
  - 9.3        Particular interests and needs of developing land-locked countries in the international régime
  - 9.4        Rights and interests of land-locked countries in regard to living resources of the sea
- Item 10.       Rights and interests of shelf-locked States and States with narrow shelves or short coastlines
- 10.1       International régime
  - 10.2       Fisheries
  - 10.3       Special interests and needs of developing shelf-locked States and States with narrow shelves or short coastlines
  - 10.4       Free access to and from the high seas

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- Item 11. Rights and interests of States with broad shelves
- Item 16. Archipelagos
- Item 17. Enclosed and semi-enclosed seas
- Item 18. Artificial islands and installations
- Item 19. Régime of islands
  - (a) Islands under colonial dependence or foreign domination or control;
  - (b) Other related matters
- Item 24. Transmission from the high seas

The Conference also allocated to the Second Committee the following items in so far as they are relevant to its mandate:

- Item 15. Regional arrangements
- Item 20. Responsibility and liability for damage resulting from the use of the marine environment
- Item 21. Settlement of disputes
- Item 22. Peaceful uses of the ocean space; zones of peace and security

The Conference recommended that the following agreement, reached in the Sea-Bed Committee on 27 August 1971, should be carried forward in respect of the main Committees of the Conference:

"While each sub-committee will have the right to discuss and record its conclusions on the question of limits so far as it is relevant to the subjects allocated to it, the main Committee will not reach a decision on the final recommendation with regard to limits until the recommendations of Sub-Committee II on the precise definition of the area have been received, which should constitute basic proposals for the consideration of the main Committee." 1/

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1/ Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 21 (A/8421).

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## III. ORGANIZATION OF WORK

At its 1st meeting on 3 July 1974 <sup>1/</sup>, the Committee agreed on the organization of a first stage of its work, on the basis of the following proposals made by the Chairman: 2/

"The items allocated to the Committee should be taken up in official and non-official meetings, as considered convenient, with the Committee Chairman presiding. Working groups should not be established, at least at the initial stage, on the understanding that, if necessary, one or more informal ad hoc groups may be established;

"The items allocated to the Committee should be considered one by one in the order in which they appear in the relevant list. The idea is to consider each of these items and questions and then to identify the main trends and to express these trends in generally acceptable formulae, in other words, to 'put the item on ice', without taking decisions, and to pass on to the following item. It is clearly understood that, during the discussion of each item, delegations may refer to related items. No decision will be taken until all the closely interconnected items have been fully considered;

"At present, it does not seem possible to draw up a time-table of work. At most, such a time-table could be prepared only tentatively and the officers are currently working on this. The officers of the Committee could be given the responsibility of periodically reviewing the progress of the work in the light of the time available. Depending on the progress of the work and having regard to the time factor, special measures could be taken to expedite the work when it is thought that the Committee is falling behind;

"The Committee should not take a formal decision on the documentation which will serve as a basis for its work. All the available documents - the documents of the Sea-Bed Committee and any others that may have been submitted officially or informally or which may be submitted during this session - may be used."

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1/ A/CONF.62/C.2/SR.1.

2/ A/CONF.62/C.2/L.2.

The Committee, upon nearing the completion of the first stage of its work, approved, at its 9th informal meeting on 15 August 1974, a proposal submitted by the Chairman on the organization of a second stage of its work. The proposal, as adopted, was contained in the following statement made by the Chairman at the 43rd meeting of the Committee on 23 August 1974: 1/

"(1) Priority will be given to the completion of the first stage of the Committee's work, namely the consideration of the informal working papers which still have to be discussed and their possible revision.

(2) Simultaneously, whenever time was available, the Committee will undertake a second reading of the items allocated to it, which will be regrouped as follows:

GROUP I: item 2 (territorial sea); item 4 (straits used for international navigation); item 16 (archipelagos); and item 3 (contiguous zone). Item 17 (enclosed and semi-enclosed seas), item 18 (artificial islands and installations), and item 19 (régime of islands) can also be discussed in so far as they relate to the other items included in this group.

GROUP II: item 5 (continental shelf); item 6 (exclusive economic zone); item 7 (coastal State preferential rights or other non-exclusive jurisdiction over resources beyond the territorial sea); item 10 (rights and interests of shelf-locked States and States with narrow shelves or short coastlines); and item 11 (rights and interests of States with broad shelves). Item 9 (land-locked countries), item 17 (enclosed and semi-enclosed seas), item 18 (artificial islands and installations), and item 19 (régime of islands) can also be discussed in so far as they relate to the other items included in this group.

GROUP III: item 8 (high seas) and item 24 (transmission from the high seas). Item 18 (artificial islands and installations) and item 19 (régime of islands) can also be discussed in so far as they relate to the other items included in this group.

(3) The aim of this second reading is to reduce, as far as possible, the number of alternative formulations in the working papers. Consequently, discussions should be focused on differences of substance, not on questions of drafting, except where new wording can help to combine alternative formulations.

(4) There will be an opportunity for delegations to introduce proposals in formal meetings of the Committee. It is to be hoped that these new proposals will be primarily designed to consolidate texts and thus reduce the number of variants. However, most of the work in the second stage will be carried out at informal meetings."

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1/ A/CONF.62/C.2/L.77.



## IV. WORK OF THE COMMITTEE

The Committee did not convene during the organizational session of the Conference held in New York from 3 to 15 December 1974.

During the second session of the Conference, the Second Committee held \_\_\_\_\_ formal meetings and \_\_\_\_\_ informal meetings.

In accordance with the agreement on the organization of its work, the Committee proceeded at its 2nd to 40th meetings to consider one by one the items allocated to it. At its 6th meeting on 17 July 1974, 1/ the Committee decided to limit participation in the debate to members of the Committee who had not been members of the Sea-Bed Committee and to members making new proposals or whose position with regard to particular issues had changed. The Committee further agreed that the members of the Committee could make statements relating to the new proposals submitted. At its 14th meeting on 23 July, 2/ the Committee decided to limit the time allowed to each speaker to 15 minutes.

The Committee considered the following items: 3/ item 2 - territorial sea; item 3 - contiguous zone; item 4 - straits used for international navigation; item 5 - continental shelf; item 6 - exclusive economic zone beyond the territorial sea; item 7 - coastal State preferential rights or other non-exclusive jurisdiction over resources beyond the territorial sea; item 8 - high seas; item 9 - land-locked countries; item 10 - rights and interests of shelf-locked States and States with narrow shelves or short coastlines; item 11 - rights and interests of States with broad shelves; item 16 - archipelagos; item 17 - enclosed and semi-enclosed seas; item 18 - artificial islands and installations; item 19 - régime of islands; and item 24 - transmission from the high seas.

An index to the summary records of the Second Committee is contained in annex III.

In furtherance of the decision of the Committee on the organization of the first stage of its work, the Bureau prepared a series of 13 informal working papers in order to reflect in generally acceptable formulations the main trends which had emerged, with relation to the items allocated to the Committee, from the proposals submitted to the Sea-Bed Committee or to the Conference itself.

1/ A/CONF.62/C.2/SR.7.

2/ A/CONF.62/C.2/SR.14.

3/ These items were considered at the following meetings: item 2 - A/CONF.62/C.2/SR.2-SR.7 and SR.10; item 3 - SR.9 and SR.31; item 4 - SR.10-SR.15; item 5 - SR.16-SR.20; item 6 - SR.21-SR.29; item 7 - SR.30-SR.31; item 8 - SR.32-SR.35; item 9 - SR.36-SR.40; item 10 - SR.32-SR.35; item 11 - SR.35; item 16 - SR.36-SR.38; item 17 - SR.38; item 18 - SR.38; item 19 - SR.38-SR.40; item 24 - SR.40.

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In a statement, 1/ made at the \_\_\_th meeting of the Committee on \_\_\_ August 1974, 2/ the Chairman recalled the procedure followed in the preparation and consideration of the informal working papers. As noted in that statement, the Committee considered these informal working papers at its informal meetings. Taking into account the observations and comments made by members of the Committee on both the substance and form of the informal working papers, the Bureau prepared two revisions of each paper. 3/

In accordance with its decision on the organization of the second stage of its work, the Committee completed a second reading, provision by provision, of the informal working paper on item 2 - territorial sea.

In this section, a final paragraph will be added reflecting the decision of the Committee with relation to the consolidation of the informal working papers into one working paper. The working paper will be included as annex I.7

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1/ A/CONF.62/C.2/L.\_\_\_\_.

2/ A/CONF.62/C.2/SR.\_\_\_\_.

3/ At its 4th informal meeting on 25 July 1974, the Committee decided to prepare no more than two revisions of any one informal working paper.

## V. DOCUMENTS BEFORE THE COMMITTEE

The Second Committee had before it the reports of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction on its work and all other relevant documentation of the General Assembly and that Committee 1/.

The Second Committee also had before it the documents submitted to it and all other documents submitted to the Conference which were relevant to the mandate of the Committee. A list of documents submitted to the Second Committee since the Committee was established until \_\_\_\_\_ August 1974 is contained in annex II.

## VI. FUTURE WORK OF THE COMMITTEE

In systematically considering the items allocated to it and preparing a series of informal working papers reflecting in generally acceptable formulations the main trends on each item, the Committee completed an essential phase of its work. The completion of this phase represents significant progress in the work of the Committee, bearing in mind the incomplete nature of the preparatory work on the items before the Committee. The Committee, at its \_\_\_\_\_th meeting on \_\_\_\_\_ August 1974, 2/ decided that the consolidated text of the informal working papers would serve as a basis for its future work.

## VII. PRESENTATION OF THE STATEMENT ON THE WORK OF THE SECOND COMMITTEE

The Rapporteur, at the \_\_\_\_\_th meeting of the Committee on \_\_\_\_\_ August 1974, presented this statement to the Committee. At that meeting, the Committee took note of the statement.

## ANNEXES TO THE STATEMENT

ANNEX I - /WORKING PAPER OF THE SECOND COMMITTEE: MAIN TRENDS/

ANNEX II - LIST OF DOCUMENTS SUBMITTED TO THE SECOND COMMITTEE UP TO \_\_\_\_\_ AUGUST 1974

ANNEX III - INDEX TO THE SUMMARY RECORDS OF THE SECOND COMMITTEE

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1/ In adopting rule 32 of the rules of procedure, the Conference implemented paragraph 6 of resolution 3067 (XXVIII), by which the General Assembly referred these documents to the Conference.

2/ A/CONF.62/C.2/SR. \_\_\_\_\_.